

**Notice of Allowability**

Application No.

10/624,858

Examiner

Duc T. Doan

Applicant(s)

BELOUSSOV ET AL.

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments on 12/04/06.
2. ☒ The allowed claim(s) is/are 1,3-6,8-21,23-24,26-29,31-39,41-47,49-53 (renumbered by examiner).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted:
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
HYUNG SOUH  
SUPERVISORY PATENT EXAMINER  
1-10-07

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR.1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for the examiner's amendments to the claims was given in a telephone interview with George S. Bardmesser (Reg #44020) on 12/29/06.

The application has been amended by Applicant on 12/04/06 . The amendment is further amended as follows:

Claim 6, page 4, line 1, the phrase "the file system is" is replaced with --the file system -

Claim 8, page 4, lines 1-2, the phrase "the file system driver is" is replaced with --the file system driver --.

Claim 35, page 9, line 1, the phrase "(new)" is replaced with --(previously presented)--.

*Status of Claims*

Art Unit: 2188

Claims 1-54 have been presented for examination in this application. In response to the last office action, claims 2,7,22,25,30,40,48,54 have been canceled. As the result, claims 1,3-6,8-21,23-24,26-29,31-39,41-47,49-53 are pending in this application.

Claims 1,3-6,8-21,23-24,26-29,31-39,41-47,49-53 are allowed.

*Allowable Subject Matter*

The following is an examiner's statement of reasons for allowance:

Claim 1 allowable over the prior art of record because the Examiner found neither prior art cited in its entirety, nor based on the prior art, found any motivation to combine any of the said prior arts which teach “...a backup storage device storing block backup data and restoring the storage device multiple times to any prior stable consistent state of the storage device stored as the block backup data;... compiling a list of data storage blocks located in the storage device that are subject to the data backup process; copying a data storage block to the backup storage device pursuant to the list of data storage block; and suspending a write command that directed to the data storage block that is subject to the data backup process but has not yet been copy, copying the data storage block that is subject of a write command to the intermediate storage device, executing the write command and copying the data storage block from the intermediate storage device to the backup storage device, wherein the computer system suspends a write command to the storage device during the data backup process if the intermediate block data container has reached a selected data capacity; and copies a selected amount of data from the intermediate block data container to the backup storage device..”

Claims 11,24,39 have similar limitation as those determined to be novel in claim 1, These claims further recite the limitation of “upon receiving an indication that the intermediate block data container is close to overload, the initiating a temporary slowdown of write operations by slowing down processes whose activity results in write operations into a non-backup area”, and have not been found in the prior art.

The remaining claims, not specifically mentioned, are allowed for the same rationale as their parent claims.

### ***Conclusion***

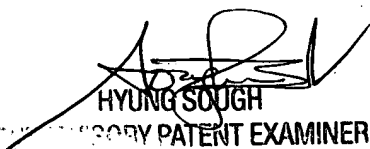
When responding to the office action, Applicant is advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist examiner to locate the appropriate paragraphs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Doan whose telephone number is 571-272-4171. The examiner can normally be reached on M-F 8:00 AM 05:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2188

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
HYUNG SOUH  
PATENT EXAMINER  
1-10-07